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February 10, 2000

Mary Cottrell, Secretary

Department of Telecommunications and Energy

One South Station

Boston, Mass. 02110

RE: Gas Restructuring, D.T.E. 98-32-E

Dear Secretary Cottrell:

Pursuant to leave granted by Hearing Officer Quincy Vale at the hearing in this matter on January 28, this is the Reply Comment of the Low-Income Utility Weatherization and Fuel Assistance Network.⁽¹⁾

This original and 12 copies are enclosed. I am also filing a copy electronically by e-mail to Kimberly.Tran@state.ma.us.

If you have any questions, please let me know.

In its opening Comment, the Low-Income Network pointed out that the restructuring of the natural gas industry in the Commonwealth should be modeled on the General Court's restructuring of the electricity industry in order to protect residential customers and guarantee that residential customers receive benefits from industry restructuring. To that end, the Comment discussed the following changes that should be made to the proposed regulations to bring them in line with electricity industry requirements:

- Low-income price discounts should be codified.
- Service quality should be required at no less than current levels,
- Residential prices ("default service") should be capped at average market levels, with a level-billing option,
- All existing customer protection requirements should be extended to competitive suppliers,
- New protections should be adopted to provide for aggregation, intermediate penalties for violations of consumer protection rules, and public price reporting, and
- Substantial utility-funded efficiency programs should be adopted so that consumers can control their bills.

The Low-Income Network reiterates these points and here replies to the written and oral comments received to date. In particular, the Network is pleased that, in oral comments at the hearing, the Local Distribution Companies (LDCs) acknowledged the need to address these issues in the gas industry. While we submit that a comprehensive restructuring of the industry requires that all issues be dealt with at once, rather than split into separate proceedings as the LDCs propose, we appreciate the LDCs willingness to engage on the issues.

The LDCs assert that the natural gas industry is different from the electricity industry. The Network agrees to this extent: for the substantial fraction of the population who heat with natural gas, restructuring of the

gas industry is even more critical to their welfare than was restructuring of the electricity industry (which itself will have a very large impact on people). Therefore, if anything, consumer protections are even more important to the gas customer than to the electricity customer -- and they are essential to the electricity customer. Thus the Network submits that the potential adverse consequences of natural gas restructuring -- such as the substantial residential price increase displayed in Exh. 1 at the hearing (attached) -- requires simultaneous adoption of correcting mechanisms.

Low-income price discount⁽²⁾

The level of discount provided by local distribution companies varies widely. While the 40% discount provided by Boston Gas is adequate, most of the other LDCs offer only half that. (Fitchburg Gas provides even less, 14.5%. Blackstone provides no discount.) These discounts, with the exception of Boston Gas, are substantially below electricity discounts and are woefully inadequate.

Furthermore, the discount eligibility standards vary incoherently from place to place. While ComGas and Fitchburg Gas have adopted most of the standard that the General Court adopted for electricity discounts (receipt of means tested benefits from programs where the standard is 175 per cent of the Federal Poverty Line),⁽³⁾

and Bay State and Essex provide discounts to recipients of all welfare assistance programs, the others present a patchwork of eligibility requirements:

- North Attleborough does not accept SSI. Fall River only accepts SSI if every household member is receiving it.
- only Fall River provides a discount to all households where all members are over age 65.
- North Attleborough and Fall River do not accept Transitional Assistance (formerly AFDC).
- Berkshire, North Attleborough and Fall River do not accept Food Stamps.
- North Attleborough and Fall River do not accept Emergency Assistance.
- Berkshire, North Attleborough and Fall River do not accept Medicaid.
- Berkshire, Boston Gas, North Attleborough and Fall River do not accept Veterans' Benefits, and
- Berkshire, North Attleborough and Fall River do not accept Refugee Resettlement.

There is no rationale for providing a 40% discount in Boston to recipients of most benefit programs while Fall River residents receive only 20% and that only if they meet more restrictive standards (unless the entire household is over age 65) while needy residents of the Blackstone service territory receive no

discount at all. The discount level should be standardized at 40% and eligibility should be set at the standard established by the General Court in the Restructuring Act.

Existing customer service protections

At the hearings, the LDCs asserted that the proposal tracks the requirements set out by statute for the electricity industry. As shown in the Network's opening Comment, this is not the case. Reliant Energy Retail (Reliant) would erode consumer protections even further by, for example, repealing the prohibition on residential late charges.

While competition may have the potential to lower prices, restructuring as proposed has the more likely potential of inflicting economic injury on residential consumers. To minimize this potential, any restructuring should maintain all existing natural gas consumer protections with respect to whomever renders service. To do otherwise would codify an adverse impact of restructuring on residential consumers.

Additional consumer protections

As set out in the Network's Comment, new competition brings on the need for new rules to protect consumers from the excesses of the marketplace. Reliant again brings reality to consumer fears by proposing to remove even the modest economic penalties the LDCs propose for slamming. Under Reliant's dream, the only penalty for slamming would be to give up a computed profit margin (in effect holding the slammer harmless despite its violation) and then only when caught; there would thus be no penalty at all for participating in what has become this most common and most complained-about utility service scam.

Efficiency programs

The Department has requested information about the benefits of efficiency, which the Network will provide shortly.

Here the Network reiterates the point that the small increase in rates that might be needed to finance substantial efficiency programs will have no adverse economic impact on the natural gas industry. Indeed, data provided by the New England Gas Association⁽⁴⁾

show that while gas usage in the 1990s grew 35 percent nationally, the industry grew 75 percent in New England.

Conclusion

For all these reasons, the Low Income Network respectfully submits that the Department should revise its proposed rules for the restructuring of the natural gas industry to

- Recognize that action must be taken to assure that all customer sectors benefit from utility industry restructuring,
- Recognize that natural gas customers should receive at least the same price and procedural protections as electricity customers,
- Provide rules for default service,
- Protect against further service quality degradation,
- Adopt and standardize low-income discounts, and
- Mandate natural gas efficiency programs.

Respectfully submitted,

Low-Income Utility Weatherization and Fuel Assistance Network

by their attorney

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cc: Quincy Vale, Hearing Officer

Attach. Exhs. 1-5, as marked at hearing, January 28, 2000

1. Low-Income Energy Affordability Network (LEAN), MASSCAP, the Massachusetts Energy Directors Association, Action, Inc. and others, collectively the Low-Income Utility Weatherization and Fuel Assistance Network referred to in G.L., c. 25, §19.

2. The information in this section is based on information provided by the Department.

3. The electricity statute also extends discount eligibility to those eligible for fuel assistance, whether or not they receive it.

4. www.nega.com/slide_march99_6.html; see www.nega.com/slide_march99_20.html; (utility use up 2.6 times).